

122 FERC ¶ 61,160  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Allegheny Power

Docket No. ER02-136-007

Allegheny Power

Docket No. ER02-136-008

ORDER ON REMAND, ADDRESSING COMPLIANCE FILING  
AND DIRECTING FURTHER COMPLIANCE FILING

(Issued February 21, 2008)

1. In response to an order by the United States Court of Appeals for the District of Columbia Circuit that remanded this proceeding to the Commission,<sup>1</sup> the Commission directs Allegheny Power to submit a compliance filing containing the proposed subtransmission rates Allegheny Electric Cooperative, Inc. (AEC) would pay based on (1) a roll-in of the costs of subtransmission facilities associated with the thirteen delivery points that are part of the separate integrated subtransmission networks in their respective West Penn zones and (2) a method, described below, that is akin to direct assignment to allocate the costs of the subtransmission facilities associated with the remaining five delivery points that are not integrated with West Penn's three larger integrated subtransmission networks. With regard to contribution in aid of construction (CIAC), the Commission accepts Allegheny Power's proposed CIAC credit, but directs Allegheny Power to submit a further compliance filing that credits AEC consistent with the revised rate design ordered herein.

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<sup>1</sup>*Allegheny Power v. FERC*, 437 F.3d 1215 (D.C. Cir. 2006) (Remand Order).

## **Introduction**

2. At issue in this proceeding are the rates for service over the subtransmission facilities of Allegheny Power's affiliate, West Penn.<sup>2</sup> West Penn's subtransmission facilities comprise three geographically distinct zones that are completely separate from one another and surrounded by other companies' systems.<sup>3</sup> This atypical configuration complicates the Commission's determination of which rate methodology (roll-in or direct assignment) produces just and reasonable rates to recover the costs of the facilities associated with each delivery point.

3. Of the total of eighteen delivery points at issue herein, ten delivery points are located in the largest of West Penn's three geographic zones (i.e., the 25 kV zone) and the facilities associated with these delivery points are integrated with West Penn's other subtransmission facilities located within that 25 kV zone. Three other delivery points are located in one of the two smaller zones (i.e., the 46 kV zone) and the facilities associated with these three delivery points are integrated with West Penn's subtransmission facilities located within that 46kV zone. Facilities associated with the remaining five delivery points, consisting of four delivery points located in the 34.5 kV and 46 kV zones and one delivery point located in the 25 kV zone, are not integrated with other subtransmission facilities in any of the three zones. As we discuss in greater detail below, we determine that rolled-in rates are appropriate for the facilities associated with the thirteen integrated delivery points (with separate rolled-in rates for the integrated facilities in the 25 kV and 46 kV zones), while a variation of direct assignment (using the only available data, i.e., system average costs) is appropriate for developing rates for the facilities associated with the remaining five delivery points, located within all three zones.<sup>4</sup>

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<sup>2</sup> While the Allegheny Power system is comprised of West Penn, Monongahela Power Company, and the Potomac Edison Company, here we are only concerned with West Penn's subtransmission facilities. West Penn is the operating company subsidiary of Allegheny Power that serves AEC.

<sup>3</sup> More specifically, the three zones, identified by voltage and location, are the 25 kV zone in western Pennsylvania, the 34.5 kV zone in south-central Pennsylvania, and the 46 kV zone in north-central Pennsylvania.

<sup>4</sup> Ten of the eighteen delivery points that are at issue and that we find to be integrated are located in the 25 kV zone in western Pennsylvania and three are located in the 46 kV zone. We do not find any subtransmission facilities for delivery points located in the 34.5 kV zone to be integrated with West Penn's subtransmission networks in that zone or in the other two zones. The materials relied upon in making these findings are referenced in notes 24 and 27, *infra*.

4. As we explain in more detail below, in revisiting those aspects of its previous orders that the court criticized in its opinion, the Commission has determined that an alternative approach to allocating the costs of the facilities associated with the eighteen delivery points at issue will lead to just and reasonable rates. The court expressly stated that the Commission was free to select such an alternative approach.<sup>5</sup>

### **Background**

5. Allegheny Power and AEC were parties to a 1994 agreement that provided for bundled partial requirements service (i.e., less 20 MW of capacity that AEC could purchase from Allegheny Power or other sources or could itself generate).<sup>6</sup> This proceeding began on October 19, 2001, when Allegheny Power filed an addendum to its partial requirements service agreement with AEC, proposing revised rates for a one-year extension of the existing agreement (December 1, 2001 through November 30, 2002). In addition, the addendum would govern the rates for partial requirements service from November 30, 2002. By order issued December 8, 2001, the Commission accepted the proposed addendum for filing, suspended it for a nominal period, made it effective subject to refund, and established hearing procedures, but held the hearing in abeyance pending settlement judge procedures.<sup>7</sup> When settlement efforts failed, the matter was set for hearing.

6. On April 13, 2003, the presiding administrative law judge issued an initial decision (ID), which found, *inter alia*, that Allegheny Power should charge AEC for subtransmission service on a “rolled-in” basis, that is, rolling-in the costs of all of West Penn’s lower-voltage subtransmission facilities.<sup>8</sup> The Commission in Opinion No. 469 affirmed the ID, making an additional finding on a CIAC issue, and directing Allegheny to make a compliance filing within 30 days of the date of issuance of the order.<sup>9</sup>

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<sup>5</sup> Remand Order, 437 F.2d at 1226.

<sup>6</sup> At the time this proceeding began, AEC had purchased the remaining 20 MW of capacity (*i.e.*, the 20 MW of capacity excluded under the 1994 agreement) from Allegheny Power.

<sup>7</sup> *Allegheny Power*, 97 FERC ¶ 61,274 (2001).

<sup>8</sup> *Allegheny Power*, 103 FERC ¶ 63,001 (2003).

<sup>9</sup> *Allegheny Power*, Opinion No. 469, 106 FERC ¶ 61,241 (2004) (Opinion No. 469).

7. Allegheny sought rehearing of Opinion No. 469, arguing that the Commission erred in stating that Allegheny Power operates an integrated subtransmission system. Allegheny Power also maintained that the rolled-in subtransmission rates called for in Opinion No. 469 should be adjusted either to credit revenues from direct assignment charges for some lower-voltage customers or to eliminate the costs and loads associated with such services (a so-called adjusted rolled-in approach). Allegheny Power argued for an “adjusted roll-in” methodology that would adjust the rates of existing subtransmission customers currently being assigned a portion of the subtransmission costs to ensure that they are not bearing a disproportionate share of those costs in light of the Commission’s approval of a rolled-in method of assigning those costs to AEC.

8. In Opinion No. 469-A, the Commission: (1) denied Allegheny Power’s rehearing request; (2) found that Allegheny Power’s compliance filing did not comply with Opinion No. 469; and (3) directed Allegheny Power to submit a further compliance filing. Allegheny Power then sought court review of these orders.

9. In response to Allegheny Power’s petition for review, the Court of Appeals remanded the matter back to the Commission for further consideration.<sup>10</sup> First, the court dismissed challenges to the Commission’s rejection of Allegheny Power’s proposal to determine subtransmission rates based on a direct assignment of costs. The court found, however, that the manner in which the Commission framed its response to Allegheny Power’s “adjusted roll-in” approach on rehearing made affirmance of the Commission’s orders contingent on the factual support for, and the reasonableness of, the finding that the West Penn subtransmission facilities at issue formed part of an integrated network of subtransmission facilities.<sup>11</sup> The court found that the Commission had not adequately supported that integration finding and had changed standards on rehearing without explanation. The court vacated the Commission’s opinions and instructed the Commission to further consider Allegheny Power’s proposal to determine AEC’s subtransmission charges based on the so-called “adjusted roll-in” approach (although the court stated that the Commission could also consider alternative approaches).<sup>12</sup>

10. In reaching this determination, the court questioned the Commission’s rationale for adopting rolled-in rates for all of the subtransmission facilities. While Opinion No. 469 closely followed the ID, by focusing on nine of the eighteen delivery points and invoking five defining elements of integration, the court stated that Opinion No. 469-A

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<sup>10</sup> Remand Order.

<sup>11</sup> *Id.*, 437 F.3d at 1221.

<sup>12</sup> *Id.*, 437 F.3d at 1225.

relied on the same evidence used in Opinion No. 469 but switched to a different, and broader, integration theory that focused on both subtransmission and transmission facilities. The court concluded that this broader integration theory was unsupported absent reliance on additional evidence or an explanation why the old evidence now supported the new conclusion.<sup>13</sup>

11. The court criticized the Commission for applying its integration finding in Opinion No. 469-A to all eighteen delivery points, given that the testimony examined in detail only nine of the eighteen. For the remaining nine points, the court noted, Opinion No. 469 simply stated that those points, while radially connected to Allegheny Power, are typically backed up by an Allegheny Power network of 25 kV lines. The court expressed concern that it was not clear: (1) whether “back-up” was synonymous with one of the five *Mansfield* factors (e.g., an indication that the facilities provide support and added reliability); (2) how the Commission defined “back-up” on the facts of this case; and (3) how “back-up” contributes to integration and justifies rolled-in rate treatment.

12. In response to the Remand Order, the Commission issued an order directing the Commission’s Dispute Resolution Service (DRS) to contact the parties in an effort to facilitate settlement discussions on the remanded issues and also on a pending issue concerning Allegheny’s computation of the CIAC credit due to AEC.<sup>14</sup> The parties subsequently reported that, despite best efforts, they were unable to reach agreement on the issues; however, they proposed to file initial briefs and reply briefs to aid the Commission in reaching its decision.

13. On brief, Allegheny Power argues that, given the court’s decision in the Remand Order, the use of a West Penn-wide roll-in of all subtransmission costs is unsupportable and therefore the Commission’s only option is to direct Allegheny Power to directly assign subtransmission costs to AEC. On the CIAC issue, Allegheny Power argues that AEC is entitled to an annual CIAC credit of \$14,461.

14. In contrast, AEC argues that the Remand Order affirmed the Commission’s rejection of Allegheny Power’s direct assignment proposal. AEC further notes that the Remand Order states that, if the only available options were direct assignment and roll-in,

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<sup>13</sup> The court later referred to this as the “five-factor Mansfield Test” based on the Commission’s decision in *Mansfield Municipal Electric Department, North Attleborough Electric Department v. New England Power Company*, 97 FERC ¶ 61,134, at 61,613-14 (2001), where the Commission looked at five factors in determining whether a facility is integrated with the rest of the network.

<sup>14</sup> *Allegheny Power*, 116 FERC ¶ 61,258 (2006) (DRS Order).

it would have affirmed the Commission's orders without remand.<sup>15</sup> AEC maintains that the Remand Order only remanded the case back to the Commission so it could consider Allegheny's "adjusted roll-in" approach,<sup>16</sup> which, it further argues, must be rejected because it uses impermissible average cost data. On the CIAC issue, AEC argues that Allegheny Power's calculation contains two errors, which, if fixed, would result in an annual CIAC credit to AEC of \$23,448.

## **Discussion**

15. The Remand Order directed the Commission "to consider whether or not an adjusted roll-in [of the costs of West Penn's subtransmission facilities] is appropriate (and such additional alternative approaches as it may deem appropriate to consider)."<sup>17</sup> In addition, Allegheny Power's compliance filing, which, *inter alia*, contains a computation of the CIAC credit due to AEC, has been protested by AEC as it relates to the CIAC issue. We address both of these matters below.

### **A. Allegheny Power's Subtransmission Facilities**

#### **1. Allegheny Power's Position**

16. Allegheny Power focuses on the choices available to the Commission. Allegheny Power argues that, to carry out the mandate of the Remand Order, the Commission must begin by re-examining the presiding judge's decision regarding the roll-in of the costs of West Penn's subtransmission facilities. Allegheny Power maintains that the presiding judge relied heavily on Trial Staff's contention that Allegheny Power had not adequately identified specific facilities and costs to support a traditional direct assignment and erred by concluding that the only alternative was a West Penn-wide roll-in of the costs of all the subtransmission facilities.

17. Allegheny Power contends that the fact that its three zones are separate networks not linked by subtransmission-voltage facilities proves that a system-wide roll-in of the costs of all West Penn subtransmission facilities is untenable and not supported by the record. Therefore, Allegheny Power urges the Commission to adopt AEC's direct

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<sup>15</sup> See Remand Order, 437 F.3d at 1226.

<sup>16</sup> Allegheny Power acknowledges that, on remand, the court directed the Commission to consider the "adjusted roll-in" approach, along with any additional appropriate alternatives. Allegheny Power Initial Brief at 1-2. We indeed select an appropriate alternative.

<sup>17</sup> Remand Order, 437 F.3d at 1226.

assignment proposal with Allegheny Power's adjustments, which it argues is consistent with *PP&L, Inc.*, 88 FERC ¶ 61,235 (1999), *reh'g denied*, 95 FERC ¶ 61,160 (2001).

## **2. AEC's Position**

18. AEC provides several reasons why Allegheny Power's adjusted roll-in proposal should be rejected. First, AEC notes that the central premise of Allegheny Power's adjusted roll-in proposal is that the directly assigned costs Allegheny Power claims to assess its other subtransmission-level service customers and their loads must be deducted from AEC's rolled-in rate. However, AEC also points out that the record establishes that West Penn has no subtransmission service customers with direct assignment rates. Thus, AEC maintains, there are no legitimate direct assignment costs and associated loads to be deducted from AEC's subtransmission rate.

19. Second, AEC states that Allegheny Power repeatedly admitted in this proceeding that it lacks the critical facility-specific original cost and depreciation data for many of the facilities providing subtransmission service to AEC and other West Penn customers, and Commission precedent precludes the use of the direct assignment methodology in the absence of these data.<sup>18</sup> Thus, AEC argues that Allegheny Power is incapable of developing a "true" direct assignment rate, much less adjusting the rolled-in rate to remove any direct assignment costs and associated loads.

20. Finally, AEC argues that record evidence supports the finding that the three subtransmission zones operate as a single, integrated subtransmission network. AEC argues that, under well-established Commission precedent, an unadjusted rolled-in rate should be charged for such service. AEC argues that the court's stated concerns regarding the Commission's integration findings are easily addressed based on the record and prior Commission rulings.

## **3. Commission Conclusion**

21. The court has asked the Commission to consider whether an "adjusted roll-in" approach would be an acceptable way to assign the costs of Allegheny Power's subtransmission system to AEC. However, as AEC points out, Allegheny Power lacks the necessary facility-specific original cost data to properly directly assign costs and

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<sup>18</sup> Citing, among other examples of this precedent, *Missouri Utilities Co.*, 10 FERC ¶ 61,297 at 61,599 (*Missouri Utilities*), *reh'g denied*, 11 FERC ¶ 61,203 (1980); *Boston Edison Co.*, 43 FERC ¶ 63,008, at 65,115 (1988), *aff'd*, 61 FERC ¶ 61,026, at 61,134-35 (1992); *Public Service Co. of Indiana*, 56 FPC 3003 (1976), *reh'g denied in relevant part*, 57 FPC 1173 (1977); *Detroit Edison Co.*, Opinion No. 748, 54 FPC 3012 (1975) (*Detroit Edison*).

Allegheny Power thus has had to rely in large part on system-average cost data to estimate the costs of the facilities involved. In addition, Allegheny Power admits that there is no evidence on this record to calculate the “adjusted” roll-in referred to by the Court.<sup>19</sup> This creates a dilemma, because, given these facts, we conclude that Allegheny Power’s “adjusted roll-in” approach does not offer an acceptable way to assign the costs of Allegheny Power’s subtransmission facilities to AEC.

22. Although the parties in their briefs advocate contrary results to resolve this dilemma, they frame their arguments similarly, both arguing that the Commission must choose between two alternatives. We disagree, and find that we have more options. This is consistent with the Commission’s duty to select an option which produces a just and reasonable rate, recognizing that each option has its own strengths and weaknesses.

23. Briefly, under Commission precedent, when facilities are integrated and thus provide system-wide benefits, facilities’ costs generally are rolled-in and charged to all customers served.<sup>20</sup> However, when facilities are not integrated and thus do not provide system-wide benefits, direct assignment typically is used to allocate costs to those customers who use the facilities.<sup>21</sup> The Commission’s practice is that direct assignment charges are developed based on the actual costs of the facilities at issue, not system-average data.<sup>22</sup> The Commission precedent provides little guidance on what to do in instances where facilities are not integrated and facility-specific cost data are not available, which we conclude below is the case regarding five of the delivery points at issue here.

24. Given the unique physical characteristics of the West Penn system,<sup>23</sup> and consistent with the court’s expressed concerns, we first revisit the Commission’s earlier integration findings and then address whether Allegheny Power’s “adjusted rolled-in”

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<sup>19</sup> Allegheny Power states that “there is no evidence on this record to calculate the “adjusted” roll-in referred to by the Court.” Allegheny Power Initial Brief on Remand at 3.

<sup>20</sup> See, e.g., *Otter Tail Power Co.*, 12 FERC ¶ 61,169, at 61,420-21 (1980).

<sup>21</sup> See, e.g., *Missouri Utilities*, 10 FERC ¶ 61,297 at 61,599.

<sup>22</sup> See, e.g., *id.*; *Boston Edison Co.*, 43 FERC ¶ 63,008 at 65,115 (1988), *aff’d*, 61 FERC ¶ 61,026, at 61,134-35 (1992).

<sup>23</sup> As the courts have recognized, ratemaking is much less a science than an art. See *Alabama Elec. Coop. v. FERC*, 684 F.2d 20, 27 (D.C. Cir. 1982). The circumstances before us here amply illustrate why that is so.



methodology, or some other methodology, produces just and reasonable rates. We also reexamine the specific delivery points at issue in this case and the role of facilities that provide “backup” for some of those points.

25. We clarify that the approach the Commission will take in deciding whether the costs of subtransmission facilities should be rolled-in or directly assigned is whether the delivery points at issue are part of an integrated subtransmission network,<sup>24</sup> and not whether the subtransmission network is integrated with the higher-voltage transmission system.

26. Using this approach (i.e., whether the delivery points at issue are part of an integrated subtransmission network), and based on our re-examination of the record<sup>25</sup> and our review of the briefs submitted by the parties, the Commission finds that the subtransmission facilities associated with thirteen of the eighteen delivery points (all located in the 25kV and 46 kV zones) are integrated with the larger integrated subtransmission networks for these two zones, and that the subtransmission facilities associated with the remaining five delivery points are not integrated with the larger subtransmission network of any of the three West Penn zones.<sup>26</sup>

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<sup>24</sup> This is the standard expressly used in Opinion No. 469, 106 FERC ¶ 61,241 at P 17.

<sup>25</sup> The principal material the Commission reexamined for purposes of this order includes Attachment D, statements and diagrams of T. V. Spencer on behalf of Allegheny Power (Docket No. ER02-136-000 filed on October 19, 2001) and Exhibit No. AP-5 (Docket No. ER02-136-004) (for determining which lines feed specific delivery points), Exhibit No. S-14 (Docket No. ER02-136-004) (for service voltages), and the testimony of Staff Witness Saeed Farrokhpay (Exhibit S-3 in Docket No. ER02-136-002).

On remand, the Commission has reexamined the material submitted by Allegheny Power as part of its original filing in this proceeding that is cited above. We believe that reliance on this material is justified given the court’s comments and directive to the Commission in its opinion, specifically, that the Commission might pursue alternative approaches.

<sup>26</sup> Specifically, as shown by the statements and diagrams of T. V. Spencer (*see supra* note 25) the subtransmission facilities at Coneville, Haneyville, Donegal, Hustontown, and Licking Creek are not part of any of the three West Penn subtransmission networks. As explained below, the subtransmission facilities at Austin, Coudersport, Elk Lick, Boyers, Clay Run, Cowansville, Clearfield, Coaltown, Latimer, (continued...)

27. In Opinion No. 469, we noted that Trial Staff's witness testified that nine of the eighteen delivery points are normally served in network configurations and that the integrated nature of these facilities is based on consideration of the following five factors, which comprise the *Mansfield* test referenced above: (1) the facilities are looped, not radial; (2) energy does not flow in just one direction over these facilities; (3) Allegheny Power serves not only AEC but also other customers over these facilities; (4) the looped configuration enables Allegheny Power to provide support and added reliability to the other looped lines; and (5) an outage on any one of these facilities affects the power flows on the other facilities.<sup>27</sup>

28. Based on these factors, Trial Staff's witness concluded that the subtransmission facilities associated with nine of the eighteen delivery points should be considered integrated and, therefore, rolled-in rates for these delivery points would be appropriate. The Commission, however, went further and found that the subtransmission facilities for the remaining nine delivery points provided backup for the West Penn system and thus the costs of these facilities should also be rolled-in. Consistent with the court's instructions on remand, the Commission is now re-examining the record and reconsidering this finding.<sup>28</sup>

29. Based on a review of the record and considering the five *Mansfield* factors, we have determined that the subtransmission facilities associated with thirteen of the West Penn delivery points to AEC are integrated with West Penn's subtransmission networks in their respective zones.<sup>29</sup> Our review of the record shows that each of these thirteen delivery points has more than one subtransmission line transporting electricity to it and

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Petrolia, Prospect, Rimersburg, and Saxonburg are integrated with West Penn's subtransmission networks for either the 25kV zone or the 46kV zone.

<sup>27</sup> 106 FERC ¶ 61,241 at P 17.

<sup>28</sup> Our integration findings below are based on the Allegheny Power exhibits and statements cited above (*see supra* note 25) that identify West Penn's facilities and how they are interconnected. We did not have before us information quantifying the flows that have traveled over these lines, but our findings do not rely on any conjecture or assumptions in this regard, nor have we relied on such data in our other cases dealing with this issue.

<sup>29</sup> *See also* 106 FERC ¶ 61,241 at P 17. We continue to rely on the findings of Trial Staff's witness that the subtransmission facilities associated with nine of the delivery points are integrated.

each subtransmission line provides backup to another subtransmission line.<sup>30</sup> Thus, we find that the subtransmission facilities associated with these thirteen delivery points form part of the integrated subtransmission networks in the two zones in which they are located; these facilities support both the loads to which they are connected and other loads. We therefore find that the subtransmission facilities associated with these thirteen delivery points all qualify for rolled-in rate treatment.

30. By contrast, the record shows that the subtransmission facilities associated with the remaining five delivery points are not part of West Penn's three subtransmission networks. Consistent with our precedent, the costs of the subtransmission facilities for these latter five delivery points therefore should not be rolled-in, but rather should be directly assigned.

31. Specifically, we find that the Saxonburg, Austin, Coudersport, and Elk Lick delivery points, which were previously considered by Trial Staff to be isolated, are integrated. The Saxonburg delivery point in the 25 kV zone is connected to the 25 kV zone by two lines and is also connected to the Houseville substation. According to Allegheny Power, backup service is provided to Saxonburg with automatic switching from the Knoch Junction, which is connected to both the Butler Substation and the Freeport Breaker Station. The Austin, Elk Lick and Coudersport delivery points are served by a network of 46 kV lines and according to Allegheny Power backup service is provided to these three delivery points by an alternative line from the Potter substation.<sup>31</sup> In all other respects our analysis is in agreement with Trial Staff as to which subtransmission facilities are integrated.<sup>32</sup>

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<sup>30</sup> For example, subtransmission facilities that provide backup meet at least three of the *Mansfield* factors, *i.e.*, factors 1, 4 and 5; a backup line is an additional electrical path or loop line that provides support and reliability to other lines in order to make deliveries, and its power flow is affected by outages of other lines which go to the same delivery point. In the case of the thirteen delivery points at issue here that we find to be integrated, each has more than one subtransmission line transporting electricity to it; therefore each subtransmission line provides backup to another subtransmission line or lines. The Commission has found in prior cases that lines that provide backup provide a system-wide benefit. *See, e.g., Northeast Texas Electric Cooperative, Inc.*, 111 FERC ¶ 61,189, at P 28 & n.52 (2005).

<sup>31</sup> *See* Statement of Allegheny Power witness T. V. Spencer filed on October 19, 2001 in Docket No. ER02-136-000 (Attachment D of Allegheny Power's original filing).

<sup>32</sup> *Id.* The other subtransmission facilities that we find are part of an integrated network of subtransmission facilities are located, as discussed in P 3 *supra*, in the 25kV (continued...)

32. Given the unique characteristics of the West Penn system, neither a flat rolled-in methodology, nor a direct assignment methodology, will result in just and reasonable rates, if the costs of all eighteen delivery points are assigned based on just one methodology. Thus, to ensure just and reasonable rates to West Penn's customers, in these unprecedented circumstances, for the thirteen integrated delivery points, we direct Allegheny Power to develop rates for AEC based on zoned roll-in of the costs of the associated subtransmission facilities in the 25 kV zone and in the 46 kV zone, respectively, but to directly assign the costs for the remaining five, non-integrated delivery points using average system costs. While it is atypical for us to require the use of both roll-in and direct assignment within the same customer class, we find that the use of both rate methodologies is required in this unusual circumstance to ensure that each individual customer does not pay costs for facilities it does not use (the facilities associated with the non-integrated points) and to avoid the creation of rate subsidies (paid by customers using only non-integrated facilities).

33. We acknowledge that allowing the use of average system cost in lieu of facility-specific costs when directly assigning costs is a departure from our precedent, but conclude such rate treatment is appropriate because Allegheny Power lacks sufficient facility-specific cost data that would allow direct assignment. AEC argues that the lack of sufficient facility-specific cost data precludes any use of the direct assignment methodology. While we agree that the lack of such data would ordinarily weigh against direct assignment, in this case we believe that an exception is warranted given that the alternative is to roll-in the costs of electrically-isolated subtransmission facilities that are not integrated with the subtransmission system and that thus do not provide any system-wide benefits. The mere fact that a particular rate design method is not supported by precedent does not mean that it automatically produces unjust and unreasonable rates.<sup>33</sup> Here, in these specific circumstances, we find that the use of system-average costs in lieu of non-existent facility-specific costs will lead to just and reasonable rates (which, we add, we will have the opportunity to review in a separate, future compliance filing) and minimizes cross-subsidization among customers, given that not all customers use all the facilities in question.

34. We also acknowledge that the Commission has rejected the use of average costs for direct assignment in other circumstances. We find use of average costs for direct

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zone in western Pennsylvania. The connections of these delivery points with West Penn's 25kV zone are shown on Exhibit S-14 and the diagrams of T. V. Spencer (referenced in note 25 *supra*). We agree with Staff Witness Farrokhpay that they are integrated with West Penn's system.

<sup>33</sup>See *supra* note 18 (citing *Missouri Utilities* and *Detroit Edison*).

assignment in this particular instance, however, is justified given our reexamination of the record in light of the court's directives and our findings herein that five of the delivery points in question are not integrated with larger subtransmission systems and that facility-specific data do not exist. We emphasize that, in this order, we are approving a rate methodology, and not specific rates, which Allegheny Power is to submit in a future compliance filing. We thus will have an opportunity to determine whether the actual rates reflecting the use of average costs for direct assignment are just and reasonable.

35. In sum, given these atypical circumstances, we find that the use of average-system costs for directly assigning non-integrated facilities is appropriate, notwithstanding that it is a departure from our precedent. We do not intend this unique result to provide a template for future cases, and we reiterate our long standing requirement that we have established in our past cases that any company that wishes to allocate costs using a direct assignment methodology must provide the necessary facility-specific data that is ordinarily an essential prerequisite for the use of this methodology.<sup>34</sup>

36. Accordingly, the Commission will direct Allegheny Power to submit a compliance filing within 60 days of the date of this order to reflect the specific customer charges resulting from both the rolled-in and direct assignment methodologies as discussed above, together with their derivation.

**B. Allegheny Power's Compliance Filing/Computation of CIAC Credit**

**1. Background**

37. In Opinion No. 469, the Commission granted AEC's exception to the ID requesting that Allegheny Power credit AEC for a CIAC of \$168,740 related to AEC's funding of an improvement on Allegheny Power's system. Opinion No. 469 directed Allegheny Power to submit a compliance filing that included a credit for the CIAC. In Opinion No. 469-A, the Commission addressed both Allegheny Power's rehearing request and its compliance filing. With respect to the compliance filing, the Commission found that Allegheny Power had not complied with the requirements of Opinion No. 469, and directed a further compliance filing. Specifically, with respect to the CIAC credit, the Commission stated that it was not clear from Allegheny Power's compliance filing and the work papers contained therein whether Allegheny Power had properly credited the CIAC to AEC. Therefore, the Commission directed Allegheny Power to submit supporting work papers that demonstrate that it has appropriately credited the CIAC to AEC.

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<sup>34</sup> *Id.*

## **2. Allegheny Power Compliance Filing**

38. In its compliance filing in Docket No. ER02-136-007, Allegheny Power proposed a CIAC adjustment of \$14,461/year (based on a cost of money of 8.57 percent). AEC protested the adjustment, arguing that the proper credit due AEC is \$23,448.

39. First, AEC argues that Allegheny Power's claimed 8.57 percent cost of money is the after-tax cost of money and that the proposal fails to credit AEC for the related income taxes that AEC's CIAC saved Allegheny Power by virtue of the CIAC. AEC contends that the income tax factor of 2.6 percent should be added to the 8.57 percent cost of money in order to properly reflect the before-tax money that should have been used by Allegheny Power to calculate the CIAC credit.

40. Second, AEC points out that Allegheny Power's proposed CIAC credit should reflect a depreciation expense component of 2.73 percent to AEC on the facilities that AEC financed through its CIAC. AEC contends that depreciation is simply a way to recover the principal used to finance the construction of facilities and to repay the investors who supplied it over the life of the facilities. Therefore, AEC states that the 8.57 percent cost of money should be adjusted to reflect a depreciation factor of 2.73 percent (derived by dividing the depreciation expense for the low voltage facilities by the related gross plant).

41. Allegheny Power responds that AEC's proposed \$23,448 credit would result in an annual return to AEC of 13.87 percent on its money (by claiming it should receive the benefit of avoided taxes (2.6 percent) and avoided depreciation (2.73 percent)). Allegheny Power argues that its proposed 8.57 percent cost of money was generous considering that AEC's actual cost of money is less than Allegheny Power's. Allegheny Power also states that, if AEC is credited with an avoided depreciation expense, we should assume this has already been provided, as AEC first paid this money roughly 13 years ago; Allegheny Power would reduce the \$168,740 CIAC by 2.73 percent annually, which effectively eliminates AEC's claimed credit.<sup>35</sup>

## **3. Commission Conclusion**

42. Allegheny Power does not dispute that AEC provided a CIAC that resulted in cost savings to Allegheny Power. Nor does Allegheny Power dispute the amount of the contribution -- \$168,740.

43. AEC is essentially arguing that Allegheny Power should reflect the costs that Allegheny Power avoided by having AEC pay to construct these facilities. We disagree.

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<sup>35</sup> Allegheny Power Initial Brief at 18.

The credit should reflect the costs incurred. Allegheny Power has proposed a credit that reflects a levelized charge over the life of the facility. Under this proposal, AEC would receive a constant revenue stream based on the gross amount of its investment; consistent with this rate design method, the cost recovery is not reduced as the plant is depreciated. With respect to income taxes, AEC has not shown an avoided tax liability for which it seeks to claim a credit. Therefore, we will not require Allegheny Power to adjust its CIAC credit for depreciation or taxes.

The Commission orders:

Allegheny Power is hereby directed to file a compliance filing containing revised rates for service to AEC, along with an explanation of their derivation, within 60 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.